

MONO COUNTY PLANNING COMMISSION

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MINUTES June 8, 2006 (Adopted July 13, 2006)

Commissioners present: Ron Black, Scott Bush, Steve Shipley (Sally Miller arrived at 10:44 a.m.).

Absent: Rick Kattelmann.

Staff present: Keith Hartstrom, principal planner; Greg Newbry, senior planner; Evan Nikirk, Tom Waters & Walt Lehmann, public works; Stacey Simon, deputy county counsel; Supervisor Hap Hazard; C.D. Ritter, commission secretary.

1. CALL TO ORDER: Acting Chair Scott Bush called the meeting to order at 10:10 a.m.

2. PUBLIC COMMENT: No items.

3. MEETING MINUTES: Review minutes of May 10, 2006. Amend Item 6B: 1) Paragraph 3, third sentence: ~~urban~~ **rural**; and 2) paragraph 6, second and third sentences: Simon indicated that if Mono had its own ordinance, argument on enforcement authority could result. **currently it is the responsibility of the FPDs in non-SRAs and CDF in SRAs to enforce defensible space requirements. The County's enforcement authority is unclear.** A local agency ~~FPD~~ can notify, but not issue a citation.

MOTION A: Adopt minutes of May 10, 2006. (Shipley/Black. Ayes: 3. Absent: Miller & Kattelmann.)

MOTION B: Adopt amended minutes of May 10, 2006. (Shipley/Black. Ayes: 4. Absent: Kattelmann.)

4. ACTION ITEM:

FINAL APPROVAL OF PARCEL MAP 31-87/Perriseau & Walton. The parcel map will subdivide APN 01-060-24, totaling 20 acres, into two 10-acre parcels. The property is located on U.S. 395 near the community of Topaz, approximately one mile south of the junction of Hwy. 89. Required improvements include installation of driveways, drainage facilities, and underground utilities. The tentative parcel map was conditionally approved by the Planning Commission at a public hearing conducted June 23, 2004. Staff recommends that, prior to final approval of the parcel map, the Planning Commission rescind the requirement for contribution of improvements and/or in-lieu fees for the Walker community park imposed by Condition of Approval #38. This action is recommended because: 1) it is not consistent with the County's past practice for approval of parcel maps; and, 2) it was inadvertently included in the Conditions of Approval for Tentative Parcel Map 31-87. *Staff: Evan Nikirk, Public Works*

Evan Nikirk described the parcel map and conditions/improvements under way. Bonding has been secured for improvements. The only outstanding issue is Condition 38, which suggests improvements to Walker Park or recreation fees. LADPW requests rescission of recreation fees.

MOTION: Approve Parcel Map 31-87, rescinding Condition 38 because it is not consistent with the County's past practice for approval of parcel maps, and it was inadvertently included in the Conditions of Approval. (Black/Shipley. Ayes: 3. Absent: Miller, Kattelmann.)

5. PUBLIC HEARING:

VARIANCE 06-01/Blommer & Tozier. The variance proposal is for setback and parking reductions for a single-family home on a 9,461-sq. ft. parcel (APN 16-151-20). The variance is based on steep geographical

DISTRICT #1
COMMISSIONER
Rick Kattelmann

DISTRICT #2
COMMISSIONER
Steve Shipley

DISTRICT #3
COMMISSIONER
Ron Black

DISTRICT #4
COMMISSIONER
Scott Bush

DISTRICT #5
COMMISSIONER
Sally Miller

features and rock outcroppings. The front-yard setback would be reduced from the standard 20' to 0', and the side-yard setback from 10' to 3'. Parking would be reduced from the required three spaces to two spaces. The encroachments are onto paper rights of way not used for roads. Actual traveled roads are approximately 35' from the property lines. The project is located in the Clark Tract on Steelhead Road in the June Lake area. The General Plan designation is Single-Family Residential. *Staff: Greg Newbry*

Greg Newbry explained that most buildable properties are gone, so only parcels with constraints remain. "Paper streets" in June Lake do not match paved streets; i.e., they do not exist.

OPEN PUBLIC HEARING: Tom Schaniel, project architect, introduced himself and the proponents.

Commissioner Bush asked whether the paper street problem had been resolved. Newbry indicated that staff is working on General Plan revisions that include this issue. Commissioner Shipley contended that in determining setbacks, Mono County is obligated to go by property lines. An aerial view of the garage, however, would put it on top of the street.

Stacey Simon indicated a process to look at and eliminate paper roads includes a lengthy inquiry under way at Public Works. Property lines are not always where they should be, and researching title history to see how a lot was created is not an easy task. She indicated that if money and public sentiment were no object, Mono could proceed to eliminate all paper roads, redo all maps, and initiate condemnation proceedings along every paved road to make it a county road. Commissioner Shipley thought that roads are not wide enough to be county roads, as houses are too close.

The proponents asked about road abandonment. Newbry said numerous abandonment requests exist, and only the County's interest would be abandoned, not that of others.

Walt Lehmann saw matters proceeding case by case, as the subdivision didn't have realistic roads. As building progresses, nastier situations could arise. He noted that survey corners are not clearly marked. A Realtor can't really define corners; legal marking must be done by a surveyor. Corners should be marked to distinguish between the legal right of way and the traveled way.

CLOSE PUBLIC HEARING.

--- Commissioner Miller arrived at 10:44 a.m. ---

DISCUSSION: Commissioner Black thought three-car parking should be waived, but predicted snow removal issues would arise. He recommended approval, and Commissioner Shipley agreed.

MOTION: Approve Variance 06-01, finding that the project qualifies as a Class 3 Categorical Exemption under CEQA Guidelines Section 15303 d., making the required findings in the project staff report, and granting approval subject to noted conditions. (Black/Shipley. Ayes: 3. Abstain due to absence during hearing: Miller. Absent: Kattelman.)

6. WORKSHOPS:

A. RIGHT TO FARM ORDINANCE: *Staff: Deputy County Counsel Stacey Simon*

Simon indicated this item has been proposed for the General Plan, under nuisances. Nuisances can be declared two ways: defined by statute, or case-by-case decision making. The law can't define everything a neighbor might do, so the Mono Supervisors would hear testimony and rule to abate. State law, which already defines farming nuisance in Civil Code, errs on the side of protecting agricultural operations. People who purchase property or develop near farming know what's there. If it's preexisting, a new owner can't prevail in a nuisance claim against an operation. The benefit of bringing into County Code verbatim what's in state law is more convenient public access. One slight change would be a local option requiring realtors to provide disclosure on nuisance action within a certain radius.

Commissioner Bush thought the ordinance gave the right to continue long-term farming, not to start farming. Simon suggested the title could be revised. Agriculture is a \$30 million/year business, and encourages proper use of land. Commissioner Bush recalled that the Denver airport rebuilt outside town and bought up adjoining land so no one could build nearby. On behalf of Scott Burns, Simon suggested considering a GPA establishing buffers between development and ag lands that could prevent conflict from arising. Commissioner Miller acknowledged that clustering is

environmentally preferable, but everyone wants their own little space. Newbry noted that in statewide conflicts, clustering promotes residential, which has more political power. Commissioner Bush thought that when pressure to develop is high, open space is worth nothing because if it were developed, it would provide a tax base.

Commissioner Shipley thought clustering on a large block of land might be overrun by future decision makers, and Commissioner Bush concurred that new decision makers driven by money could change it. "If humans can do it, there's a way downstream to undo it," he said.

B. NIGHT SKY ORDINANCE: *Staff: Greg Newbry*

Greg Newbry presented a "See the Night" PowerPoint on an ordinance that has gained unanimous RPAC support. Common problems include misdirected light, excess light and compromised security (deep shadows), as well as unnecessary light, low-quality fixtures, and energy waste. High-intensity and floodlights are very obvious. Quality of light is far more important than quantity.

Commissioner Shipley asked about regulation of extreme over lighting. Commissioner Bush thought light shining into a bedroom window detracts from quality of life. If smell and noise can be considered a nuisance, why not light? Commissioner Miller suggested adopting the ordinance for new projects, but Commissioner Shipley thought the ordinance would be useless if not applicable to existing owners. "It's easy passing a law that applies to somebody else, reaping the benefit but not paying for it," he said. Commissioner Bush suggested a voter initiative for retroactive enforcement. Probably 90% already comply, so offenders are the concern. The RPAC members should be asked if they are willing to comply.

Supervisor Hazard said citizen complaints involved street lighting, county and other public agency buildings. Downhill or uphill slopes should be factored into planning efforts; e.g., glow from MHS football floodlights extends south to the green church on U.S. 395. Commissioner Miller suggested adopting the ordinance and returning in the fall. Commissioner Black favored voluntary compliance and opposed overregulation. He has already changed his own lighting.

--- Commissioner Miller exited at 12:05 p.m. ---

Nuisance is in the eye of the beholder, and no legal grounds exist to declare lighting a nuisance. Simon said it could be resolved easily by modifying the definition of "Nuisance."

7. REPORTS:

A. DIRECTOR: None.

B. PLANNING COMMISSIONERS: **Black:** The June Lake nonprofit group is operational and seeking contributions. A discount card distributed at the ski mountain with a \$60 lift ticket would show visitation. Re LADWP et al.'s release of water: Maybe a spillway that uniformly spreads out water on its way to Grant Lake is needed. Other agencies need advance notice when floodgates are opening to release water. **Shipley:** Supervisor Hazard addressed the Long Valley RPAC re affordable housing, parking, and community issues. Thirty to 40 people had concern with water issues and proposed mosquito abatement. Crowley is experiencing growing pains. Streetlights and speeding are big issues. Supervisor Hazard indicated that Crowley Lake road survey results would be released soon.

8. INFORMATION: No items.

9. ADJOURN: 12:15 p.m.

Respectfully submitted,
C.D. Ritter, commission secretary